

**REMARKS**

Upon entry of this Amendment, claims 1-9, 13-18, and 21-32 remain pending with claims 1-6, 13-18, and 21-32 currently withdrawn from consideration. Claims 10-12, 19, 20 and 33-35 are canceled without prejudice or disclaimer by this Amendment.

The sole outstanding issue concerns the rejection of claims 7-12, 19-20 and 33-35 under 35 U.S.C. 103(a) as purportedly obvious based on Kryzsik (U.S. Pat. No. 6,534,074) in view of Shimizu (U.S. Pat. No. 6,306, 898). Applicants again respectfully traverse.

Applicants note only claims 7-9 are currently pending. Claim 7 (from which claims 8 and 9 depend) concerns a phytolipid composition. Claim 7 recites the composition as consisting essentially of about 15 to 40 weight percent squalene, about 10 to 40 weight percent phytosterols, about 1 to 10 weight percent of mixed tocopherols and about 25 to 60 weight percent vegetable wax and contains less than 0.1 weight percent solvent. The M.P.E.P. teaches, "The transitional phrase "consisting essentially of" limits the scope of a claim to the specified materials or steps "and those that do not materially affect the basic and novel characteristic(s)" of the claimed invention." MPEP § 2111.03. Kryzsik describes a composition that includes additional materials which would materially affect the basic characteristics of the claimed invention and, for at least this reason, this rejection is improper and should be withdrawn.

Kryzsik describes a body facing material that includes, for example, ingredients such as a body facing material, natural fats, emulsifying surfactants, humectants, emollients, and viscosity enhancers. Each of the additional ingredients has known properties which would materially affect the characteristics of the composition recited in claims 7-9. For example, while the composition according to the present invention can be used in skin care products, the composition can also be used in products intended for human consumption. See Examples 7-10 in the present specification. The body facing itself would materially affect the claimed composition rendering it useless as an additive for a food product. Moreover, since the invention of Kryzsik is based on the body facing material, there is nothing in the teachings of Kryzsik which would motivate

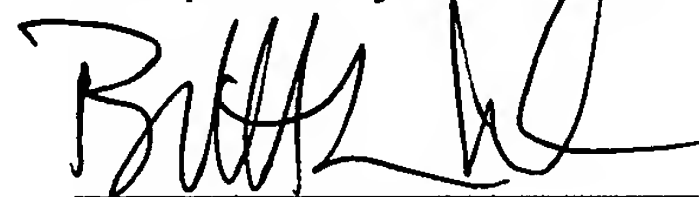
those of ordinary skill in the art to remove the body facing material or other additional ingredients to arrive at the composition of the present claims. Hence, for at least this reason, the rejection is overcome and should be withdrawn.

Because the sole remaining rejection has been overcome, applicants earnestly solicit a Notice of Allowance.

No Fee is believed to be due. However, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment in fees to Deposit Account No. 05-0221.

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Respectfully submitted,



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Date

CERTIFICATE OF MAILING UNDER 37 CFR 1.8(a)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Jodi L. Owenby  
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5/10/2007  
Date